

REMARKS

The Applicant thanks the Examiner for the careful consideration of this application. Claims 1-20 are currently pending. Claims 13 is amended. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Objections to the Claims

In the Office Action on page 4, in section 8, claims 8 and 9 are objected to for being multiple dependant claims that depend from other multiple dependent claims. Applicant respectfully traverses this rejection.

A Preliminary Amendment was filed for this application on April 22, 2004. This Preliminary Amendment removed all instances of multiple dependency from the claims. Both claim 8 and 9 depend from claim 4, which in turn depends from claim 1. There are no multiple dependent claims in this application. Applicant respectfully requests that the objection to claims 8 and 9 be withdrawn, and that the claims be examined on the merits.

To the extent that the Preliminary Amendment was not considered, and if a Notice of Allowance is not mailed next, Applicant respectfully requests that a non-final Office Action be mailed in response to this Amendment. A Final Office Action would not be proper as the Preliminary Amendment was not fully considered.

Rejections under 35 U.S.C. § 112, First Paragraph

In the Office Action on page 2, section 3, claim 19 is rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Applicant respectfully traverses this rejection.

The Action states that the specification fails to specifically disclose the various embodiments of the claimed “computer program product.” A “computer program product” and its embodiments are concepts well known to those having ordinary skill in the art. A “computer program product” may be embodied in any extant or future computer readable medium used to hold computer readable

instructions. For example, a “computer program product” may be embodied as a DVD or other optical media, a hard drive or magnetic media, or a flash drive or other nonvolatile media.

Further, “computer program product” has been recognized as a statutory article of manufacture since *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995). If “computer program product” were indefinite and not understood by those having ordinary skill in the art, it would not have been considered a statutory article of manufacture. Thus, Applicant respectfully requests that the rejection of 19 for lack of written description be withdrawn.

Rejections under 35 U.S.C. § 112, Second Paragraph

In the Office Action on page 3, section 5, claim 13 is rejected under 35 U.S.C. § 112, second paragraph, for having insufficient antecedent basis. Applicant respectfully traverses the rejection.

The Actions states that the feature of claim 13 of “said third selected audio video data” lacks antecedent basis. Claim 13 is amended to recite “a third selected audio video data.” Applicant respectfully requests that the rejection of claim 13 for insufficient antecedent basis be withdrawn.

Rejections under 35 U.S.C. § 101

In the Office Action on page 3, in section 7, claim 19 is rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

Claim 19 recites a “computer program product.” The Action states that a “computer program product” is not a statutory class of invention, and asserts that the recited “computer program product” is a data structure. According to the Action, data structures not claimed as embodied in a computer readable medium and computer programs claimed as listings, instructions, or codes are not statutory. The recitation of data structures and computer programs are discussed in the MPEP. According to MPEP § 2106.01, “functional descriptive material consists of data structures and computer programs which impart functionality when employed as a computer component.” Further, according to MPEP § 2106.01 “when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.”

As discussed above, regarding the rejection under 35 U.S.C. § 112, first paragraph, one having ordinary skill in the art would recognize a “computer program product” as embodied in a computer readable medium used to hold computer readable instructions. The computer program product of claim 19 may be embodied as a computer readable medium holding computer readable instructions for performing the method of claim 1. Thus, in accordance with MPEP § 2106.01, claim 19 is statutory under 35 U.S.C. § 101. Further, as discussed above, In re Beauregard recognized computer program products as statutory subject matter.

Thus, Applicant respectfully requests that the rejection of claim 19 for being directed to non-statutory subject matter be withdrawn.

Rejections under 35 U.S.C. § 102

In the Office Action on page 4, section 10, claims 1-7 and 10-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,724,475 to Kristen (hereinafter ‘Kristen’). Applicant respectfully traverses the rejection.

Referring to the disclosure of the present application, data is captured at a standard, full resolution. The resolution is the same across the image field. Subsequently, for example, $\frac{1}{2}$ to 2 days after the date is captured, some of the data stream may be discarded to reduce the quality of the moving image stream. This may be achieved by removing B frames from the MPEG data stream. Subsequently, after, for example, after 5 to 10 days, P frames may be removed from the data stream to provide a smaller data set of still lower resolution or lower frame rate. This may leave only the I frames in the MPEG data stream. As described on page 10, line 31 – page 11, line 13 of the specification, the original image data using an MPEG format has 24 frames per second. After removal of the first set of data (the B frames), the image data has 8.3 frames per second.

As to claim 1, Kristen does not disclose or suggest “storing said audio/video data at a second, lower, spatial and/or temporal resolution for at least a second, later, time period.” The Action, on pages 4 and 5, aligns the above feature of claim 1 with col. 15, lines 30-50 of Kristen. The cited section of Kristen discloses a process, “process B,” for archiving video on a storage device such that newer archived video is not overwritten before older archived video. The processes disclosed in Kristen merely ensure that when a new video needs to be archived to a

storage device that is already full, archiving the new video only overwrites the older archived video on the storage device, resulting in an approximation of “first-in, first-out” data management. This is in contrast to claim 1, where it is the **same** audio/video data being stored, only at a lower spatial and/or temporal resolution than the original audio/video data. The video archived by Kristen is **not** “said audio/video data,” and is **not** stored at a “second, lower, spatial and/or temporal resolution.” Instead, the process disclosed in Kristen is **overwriting** an archive of an older video with a **newer, different** video. As the new video is not the same as the old video, the audio/video data for the new video of Kristen **cannot** be the audio/video data for the old video at a lower spatial and/or temporal resolution.

Hence, Kristen fails to teach “storing said audio/video data at a second, lower, spatial and/or temporal resolution for at least a second, later, time period.” Therefore, claim 1 is allowable over Kristen.

Claims 2-15 and 18-20 are allowable over Kristen for at least being dependent on allowable claim 1.

Claim 16 recites features similar to those of claim 1, and is therefore allowable over Kristen for at least the same reasons as claim 1.

Claim 17 is allowable over Kristen for at least being dependent on allowable claim 16.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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